

Executive Summary – Enforcement Matter – Case No. 44808

City of Plainview

RN101228997

Docket No. 2012-1700-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Plainview Municipal Water System, 3600 West 16th Street, Jack Skaggs Building, Plainview, Hale County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 1, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,822

Amount Deferred for Expedited Settlement: \$3,164

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$12,658

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. - Household Hazardous Waste Clean-Up

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Docket No. 2012-1700-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 20, 2012

Date(s) of NOE(s): August 3, 2012

Violation Information

1. Failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, the well casing on Well No. 21 did not have the required vent [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].
2. Failed to install the appropriate backflow prevention assemblies ("BPAs") or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i). Specifically, Respondent did not have the appropriate BPAs or air gaps installed at the 31 locations [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].
3. Failed to complete a customer service inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe that cross connections or other potential contamination hazard exists. Specifically, Respondent could not provide CSI certificates for 30 service connections listed in the table above where cross connections or other contamination hazards are likely to exist [30 TEX. ADMIN. CODE § 290.46(j)].
4. Failed to calibrate the combined filter effluent ("CFE") turbidimeter and failed to verify the accuracy of the CFE and individual filter effluent ("IFE") turbidimeters. Specifically, Respondent could not provide records that the on-line CFE turbidimeter was calibrated with a primary standard at least once every 90 days and that the on-line CFE and on-line IFE turbidimeters' accuracy was verified at least once each week using a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit [30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i), (ii), and (iv)].
5. Failed to calibrate the benchtop chlorine analyzer with a primary standard at least once every 90 days and verify the accuracy of on-line disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations [30 TEX. ADMIN. CODE § 290.46(s)(2)(C)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent submitted documentation on July 2, 2012 that the well casing vent was installed on Well No. 21.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
 - a. Within 30 days:
 - i. Begin calibrating the CFE turbidimeter at least every 90 days, ensure that the secondary standards are restandardized each time the CFE turbidimeter is calibrated with a primary standard, and ensure that the accuracy of online CFE and IFE turbidimeters is verified at least once each week using a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the online unit with the results from a properly calibrated benchtop unit;
 - ii. Ensure that the benchtop chlorine analyzer is calibrated with a primary standard at least once every 90 days and that the calibration of online disinfectant residual analyzers is checked at least once each month with a chlorine solution of known concentration or by comparing the results from the online analyzer with the result of an approved benchtop amperometric, spectrophotometric, or titration method; and
 - iii. Complete customer service inspection certificates for the 30 service connections listed in the table in Allegation 2.
 - b. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a.i. through a.iii.
 - c. Within 90 days, ensure that a proper backflow prevention assembly or air gap is provided at the locations identified in the table in Allegation 2 where an actual or potential contamination hazard exists.
 - d. Within 105 days, submit written certification demonstrating compliance with Ordering Provision c.
 - e. Within 315 days, complete customer service inspection certificates for all service connections where cross connections or other contamination hazards are likely to exist,

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including any locations undergoing construction or modification, or after any material improvement, correction, or addition to the private water distribution facilities, when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist.

f. Within 330 days, submit written certification demonstrating compliance with Ordering Provision e.

g. Within 365 days, ensure that a proper backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists.

h. Within 380 days, submit written certification demonstrating compliance with Ordering Provision g.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: The Honorable Wendell Dunlap, Mayor, City of Plainview, 901 Broadway Street, Plainview, Texas 79072

Mike Gilliland, Director of Public Works, City of Plainview, 901 Broadway Street, Plainview, Texas 79072

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1700-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Plainview
Payable Penalty Amount:	Twelve Thousand Six Hundred Fifty-Eight Dollars (\$12,658)
SEP Amount:	Twelve Thousand Six Hundred Fifty-Eight Dollars (\$12,658)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Household Hazardous Waste Clean-Up
Location of SEP:	Hale County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Plainview
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES Assigned **PCW** 30-Jul-2012
22-Aug-2012 Screening 13-Aug-2012 EPA Due 31-Dec-2012

RESPONDENT/FACILITY INFORMATION

Respondent City of Plainview
Reg. Ent. Ref. No. RN101228997
Facility/Site Region 2-Lubbock Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 44808 No. of Violations 5
Docket No. 2012-1700-PWS-E Order Type 1660
Media Program(s) Public Water Supply Government/Non-Profit Yes
Multi-Media Inf. Coordinator Jim Fisher
EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$14,550

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 9.0% Enhancement Subtotals 2, 3, & 7 \$1,309

Notes Enhancement for one NOV with same/similar violations, and two NOV with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$37

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$1,551
Approx. Cost of Compliance \$21,155
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$15,822

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$15,822

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$15,822

DEFERRAL

20.0%

Reduction

Adjustment -\$3,164

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$12,658

Screening Date 13-Aug-2012

Docket No. 2012-1700-PWS-E

PCW

Respondent City of Plainview

Policy Revision 3 (September 2011)

Case ID No. 44808

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101228997

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Compliance History Worksheet>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 9%>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

Enhancement for one NOV with same/similar violations, and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 9%>> **Final Compliance History Adjustment****Final Adjustment Percentage *capped at 100%** 9%

Screening Date 13-Aug-2012

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PCW

Respondent City of Plainview

Policy Revision 3 (September 2011)

Case ID No. 44808

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101228997

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(K)

Violation Description

Failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, the well casing on Well No. 21 did not have the required vent.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide the well casing vent with a screen could allow a significant amount of contaminants to enter the water source, which would not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$150

One quarterly event is recommended, calculated from date of the investigation, June 20, 2012 to the date of compliance, July 2, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$37

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance on July 2, 2012.

Violation Subtotal \$113

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$127

This violation Final Assessed Penalty (adjusted for limits) \$127

Economic Benefit Worksheet

Respondent City of Plainview
Case ID No. 44808
Reg. Ent. Reference No. RN101228997
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$100	20-Jun-2012	2-Jul-2012	0.03	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to screen the well casing vent, calculated from the investigation date to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 13-Aug-2012

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PCW

Respondent City of Plainview

Policy Revision 3 (September 2011)

Case ID No. 44808

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101228997

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to install the appropriate backflow prevention assemblies ("BPAs") or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 Tex. Admin. Code § 290.47(i). Specifically, the Respondent did not have the appropriate BPAs or air gaps installed at the 31 locations listed in Attachment 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have a proper BPA or an air gap installed may allow backflow and siphonage to occur resulting in customers of the Facility being exposed to contaminants which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 31

54 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$9,300

Thirty-one events are recommended, based on one quarterly event for each site, calculated from the investigation date, June 20, 2012 to the screening date, August 13, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$9,300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,179

Violation Final Penalty Total \$10,137

This violation Final Assessed Penalty (adjusted for limits) \$10,137

Economic Benefit Worksheet

Respondent City of Plainview
Case ID No. 44808
Reg. Ent. Reference No. RN101228997
Media Public Water Supply
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$17,825	20-Jun-2012	31-May-2013	0.95	\$56	\$1,123	\$1,179
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to install an approved BPA or air gap at each location where an actual or potential contamination hazard exists, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$17,825

TOTAL

\$1,179

Screening Date 13-Aug-2012

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PCW

Respondent City of Plainview

Policy Revision 3 (September 2011)

Case ID No. 44808

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101228997

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(j)

Violation Description

Failed to complete a customer service inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe that cross connections or other potential contamination hazard exists. Specifically, the Respondent could not provide CSI certificates for 30 service connections listed in Attachment 1 where cross connections or other contamination hazards are likely to exist.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

6/20/2012	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 30

54 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$4,500

Thirty single events are recommended, one event for each connection without a completed CSI.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$129

Violation Final Penalty Total \$4,905

This violation Final Assessed Penalty (adjusted for limits) \$4,905

Economic Benefit Worksheet

Respondent City of Plainview
Case ID No. 44808
Reg. Ent. Reference No. RN101228997
Media Public Water Supply
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	20-Jun-2012	30-Apr-2013	0.86	\$129	n/a	\$129

Notes for DELAYED costs

The delayed cost includes the estimated amount to complete CSI certificates (\$100 x 30 CSI certificates), calculated from the initial investigation date documenting the violation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$129

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Media [Statute] Public Water Supply
Enf. Coordinator Jim Fisher

Docket No. 2012-1700-PWS-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.46(s)(2)(B)(i), (ii), and (iv)

Violation Description

Failed to calibrate the combined filter effluent ("CFE") turbidimeter and failed to verify the accuracy of the CFE and individual filter effluent ("IFE") turbidimeters. Specifically, the Respondent could not provide records that the on-line CFE turbidimeter was calibrated with a primary standard at least once every 90 days and that the on-line CFE and on-line IFE turbidimeters' accuracy was verified at least once each week using a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to properly calibrate laboratory equipment could expose customers of the Facility to pollutants which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

54 **Number of violation days**

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

One quarterly event is recommended, calculated from the investigation date, June 20, 2012, to the screening date, August 13, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount #REF!

Violation Final Penalty Total \$327

This violation Final Assessed Penalty (adjusted for limits) \$327

Economic Benefit Worksheet

Respondent City of Plainview
Case ID No. 44808
Reg. Ent. Reference No. RN101228997
Media Public Water Supply
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$165	20-Jun-2012	13-Aug-2012	1.07	\$9	\$165	\$174
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25) to properly calibrate the CFE turbidimeter, and the estimated amount (\$140) to properly verify the accuracy of the on-line turbidimeters one time per week (\$20/verification x 7 weeks), calculated from the investigation date to the screening date.

Approx. Cost of Compliance

\$165

TOTAL

\$174

Screening Date 13-Aug-2012

Docket No. 2012-1700-PWS-E

PCW

Respondent City of Plainview

Policy Revision 3 (September 2011)

Case ID No. 44808

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101228997

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(s)(2)(C)

Violation Description Failed to calibrate the benchtop chlorine analyzer with a primary standard at least once every 90 days and verify the accuracy of on-line disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Failure to properly calibrate laboratory equipment could expose customers to pollutants which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

54 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

One quarterly event is recommended, calculated from the investigation date, June 20, 2012, to the screening date, August 13, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$327

This violation Final Assessed Penalty (adjusted for limits) \$327

Economic Benefit Worksheet

Respondent City of Plainview
Case ID No. 44808
Reg. Ent. Reference No. RN101228997
Media Public Water Supply
Violation No. 5

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$65	20-Jun-2012	13-Aug-2012	1.07	\$3	\$65	\$68
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25) to properly calibrate the benchtop chlorine analyzer, and the estimated amount to properly verify the accuracy of the on-line chlorine residual analyzers (\$20/month x 2 months), calculated from the the investigation date to the screening date.

Approx. Cost of Compliance \$65

TOTAL \$68

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600833990, RN101228997, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

Customer, Respondent, or Owner/Operator: CN600833990, City of Plainview

Classification: AVERAGE

Rating: 1.11

Regulated Entity: RN101228997, PLAINVIEW MUNICIPAL WATER SYSTEM

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 3600 W 16TH STREET, JACK SKAGGS BUILDING, PLAINVIEW, HALE COUNTY, TEXAS

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0950004

WATER LICENSING LICENSE 0950004

Compliance History Period: September 01, 2006 to August 31, 2011

Rating Year: 2011

Rating Date: 09/01/2011

Date Compliance History Report Prepared: October 01, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 13, 2007 to August 13, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jim Fisher **Phone:** (512) 239-2537

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 January 26, 2011 (892998)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

NOVs Issued During Component Period 8/13/2007 and 8/13/2012

- 1** **Date: 08/24/2007 (572332)** **CN600833990**
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
Description: Failure to provide a suitable sampling cock on the discharge pipe of the well prior to any treatment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to paint and maintain the hatch on the Elm Street ground storage tank.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
Description: Failure to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged.
- 2** **Date: 06/12/2008 (657229)** **CN600833990**
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide copies of deed recorded sanitary control easements for properties not owned by the city.
- 3** **Date: 08/13/2010 (844597)** **CN600833990**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)
Description: Failure to maintain the minimum free chlorine residual of 0.2 mg/L.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
Description: Failure to utilize the appropriate color coding at the Surface Water Treatment Plant.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failure to provide a liquid level indicator at the tank site.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)
30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failure to provide an adequate backflow protection program.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)
Description: Failure to properly calibrate all laboratory equipment used for compliance testing.

* NOVs applicable for the Compliance History rating period 9/1/2006 to 8/31/2011

F. Environmental audits:

N/A

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PLAINVIEW
RN101228997**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1700-PWS-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Plainview ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply at 3600 West 16th Street, Jack Skaggs Building, in Plainview, Hale County, Texas (the "Facility") that has approximately 8,645 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on August 7, 2012.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Fifteen Thousand Eight Hundred Twenty-Two Dollars (\$15,822) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand One Hundred Sixty-Four Dollars (\$3,164) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived

upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twelve Thousand Six Hundred Fifty-Eight Dollars (\$12,658) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that the Respondent submitted documentation on July 2, 2012 that the well casing vent was installed on Well No. 21.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on June 20, 2012. Specifically, the well casing on Well No. 21 did not have the required vent.
2. Failed to install the appropriate backflow prevention assemblies ("BPAs") or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i), in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during an investigation conducted on June 20, 2012. Specifically, the Respondent did not have the appropriate BPAs or air gaps installed at the 31 locations listed in the table below:

City of Plainview
RN101228997
Docket No. 2012-1700-PWS-E

Facilities Posing an Actual or Potential Contamination Hazard Requiring an
Appropriate Backflow Prevention Assembly or Air Gap

	<u>Facility Name</u>	<u>Address</u>
1	Kleen King, Classic Car Care	607 West 5th Street
2	Vicks Cleaners	2401 West 5th Steet
3	Date Street Laundry	800 North Date Street
4	Covenant Hospital	2601 Dimmitt Road
5	Legacy healthcare	1301 Mesa Drive
6	Plainview Surgical Care	2512 Xenia
7	Kornerstone Mortuary	3605 SW 3rd Street
8	Plainview Family Dentistry	26915 West 24th Street
9	Familia Dental of Plainview	1601 Kermit
10	Animal Clinic of Plainview	201 North Interstate Highway 27
11	Bobby's Photographic Memories	1315 Quincy
12	Plainview Swimming Pool	3300 West 16th Street
13	Downtown Detail Shop	920 Broadway
14	Bulldog car Wash	2201 West 24th Street
15	Classic Car Care	302 East 5th Street
16	Gordo's Laundry	1201 North Columbia
17	KC's Discount Cleaners	3400-A Olton Road
18	South Plains Health Provider	2801 West 8th Street
19	Covenant Outpatient Clinic	2606 Yonkers
20	Children's Rural Health Clinic	2202 Edgemere Drive
21	Sadler Monument Works	400 Joliet
22	Randall Meyer	3109 Olton Road
23	Anala Panchumarti	2801 West 8th Street
24	J Gaynor	701 Houston Street
25	Rick Cross	700 Joliet
26	Central Plains Vet Clinic	1800 North Interstate Highway 27
27	Rudolph's automated Torch Services	110 Milwee
28	Treasured Memories	1001 Broadway
29	Westridge Swimming Pool	106 Yucca Terrace
30	YMCA	313 Ennis
31	Plainview Surface Water Treatment Plant*	3600 West 16th Street

*The Plainview Surface Water Treatment Plant requires a backflow prevention assembly but does not require a customer service inspection.

3. Failed to complete a customer service inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe that cross connections or other potential contamination hazard exists, in violation of 30 TEX. ADMIN. CODE § 290.46(j), as documented during an investigation conducted on June 20, 2012. Specifically, the Respondent could not provide CSI certificates for 30 service connections listed in the table above where cross connections or other contamination hazards are likely to exist.
4. Failed to calibrate the combined filter effluent ("CFE") turbidimeter and failed to verify the accuracy of the CFE and individual filter effluent ("IFE") turbidimeters, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i), (ii), and (iv), as documented during an investigation conducted on June 20, 2012. Specifically, the Respondent could not provide records that the on-line CFE turbidimeter was calibrated with a primary standard at least once every 90 days and that the on-line CFE and on-line IFE turbidimeters' accuracy was verified at least once each week using a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit.
5. Failed to calibrate the benchtop chlorine analyzer with a primary standard at least once every 90 days and verify the accuracy of on-line disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C), as documented during an investigation conducted on June 20, 2012.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Plainview, Docket No. 2012-1700-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, Twelve Thousand Six

Hundred Fifty-Eight Dollars (\$12,658) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin calibrating the CFE turbidimeter at least every 90 days, ensure that the secondary standards are restandardized each time the CFE turbidimeter is calibrated with a primary standard, and ensure that the accuracy of online CFE and IFE turbidimeters is verified at least once each week using a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the online unit with the results from a properly calibrated benchtop unit, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Ensure that the benchtop chlorine analyzer is calibrated with a primary standard at least once every 90 days and that the calibration of online disinfectant residual analyzers is checked at least once each month with a chlorine solution of known concentration or by comparing the results from the online analyzer with the result of an approved benchtop amperometric, spectrophotometric, or titration method, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Complete customer service inspection certificates for the 30 service connections listed in the table in Allegation No. 2, as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 45 days of the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.
 - c. Within 90 days after the effective date of this Agreed Order, ensure that a proper backflow prevention assembly or air gap is provided at the locations identified in the table in Allegation No. 2, where an actual or potential contamination hazard exists, in accordance with 30 TEX. ADMIN. CODE § 290.44.
 - d. Within 105 days of the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.

- e. Within 315 days after the effective date of this Agreed Order, complete customer service inspection certificates for all service connections where cross connections or other contamination hazards are likely to exist, including any locations undergoing construction or modification, or after any material improvement, correction, or addition to the private water distribution facilities, when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist.
- f. Within 330 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.e.
- g. Within 365 days after the effective date of this Agreed Order, ensure that a proper backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, in accordance with 30 TEX. ADMIN. CODE §§ 290.44 and 290.46.
- h. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.g. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

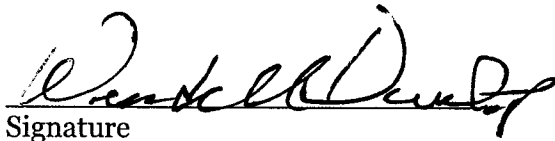
3/14/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1-23-13
Date

WENDELL DUNLAP
Name (Printed or typed)
Authorized Representative of
City of Plainview

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2012-1700-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Plainview
Payable Penalty Amount:	Twelve Thousand Six Hundred Fifty-Eight Dollars (\$12,658)
SEP Amount:	Twelve Thousand Six Hundred Fifty-Eight Dollars (\$12,658)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Household Hazardous Waste Clean-Up
Location of SEP:	Hale County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Plainview
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.